

OGC 72-1088

27 July 1972

MEMORANDUM FOR: Executive Director-Comptroller

SUBJECT : Declassification of Intelligence for Publication
in State's Foreign Relations Series

AT 1. [] has requested our comments on Mr. Drell's memorandum of 25 July to you, subject as above. In particular, our views as to paragraph 2 are requested.

2. Paragraph 2 poses the question of the Director's authority under the Executive Order with respect to declassification actions by other departments and agencies which involve non-CIA intelligence documents. (CIA documents would include not only documents originated by this Agency, but also those for which we have responsibility; for example, OSS documents.) The National Security Act (section 102 (d)(3)) provides that the Director "shall be responsible for protecting intelligence sources and methods from unauthorized disclosure". It is, I believe, well understood that this language gives the Director "responsibility" but not "authority." Thus, the Director historically has exercised formal power with respect to other departments and agencies only in his capacity as Chairman of USIB and the issuance of DCIDs, which directives are issued with the approval of the members of USIB. I believe the new Executive Order does not change this situation and any action the Director now seeks to accomplish concerning declassification requirements and practices in other departments would involve the same approach. It would be appropriate, therefore, to institute USIB studies looking to the issuance of appropriate DCIDs. Such studies could be directed not only to questions of declassification. They could consider also such related questions as the use of the exemption authority under E.O. 11652 by departments who originate documents based on documents of other departments, which documents in turn have been exempted from the General Declassification Schedule.

3. With respect to the Maclean letter of 14 May 1948, it would appear that the Agency's position would have to be governed by the question of which department of the U. S. Government has responsibility for the Maclean letter. Mr. Drell is now attempting to determine that question. If the responsible department is not CIA, it would seem that, consistent with the above, the Agency's response could only be a matter of recommendation. On the other hand, if the Maclean letter is now a CIA document, CIA would have sole authority to decide the declassification question. In any event, if the CIA position is that the letter may be declassified, it might be in order to simply advise the Department of State that we have no objection to declassification, without specifying whether we are recommending or deciding.



Associate General Counsel

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Original - Addressee w/background

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